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KEEPING THE WORK FLOOR CLEAN MONITORING MODELS IN THE GARMENT INDUSTRY

*A PUBLICATION OF THE CLEAN CLOTHES CAMPAIGN
DECEMBER 1998*

REVISED TRANSLATION of "ETHIEK IN DE FABRIEK"

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REVISED TRANSLATION of "ETHIEK IN DE FABRIEK"

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INTRODUCTION

Vietnamese women who make shoes for Nike are hit in the head if they make a mistake. Employees in China who work for Esprit have to work 93 hours per week. Indonesian women who worked for Adidas and Kappa were fired for going on strike. Romanian employees who work for H&M earn a wage far below the subsistence level. Employees in a factory producing for Levi Strauss in Indonesia earn less than the minimum wage, are not paid the proper overtime due to them, and the 2000 employees are expected to share a total of 10 toilets.

These are just a few arbitrary examples received recently. We became aware of these incidents quite coincidentally through contacts we have with various unions and women's organisations in the areas mentioned, or because we or other campaigns have done inspections of these locations. The more contacts we have and the more inspections we do, the more these kinds of stories will be heard. All companies that are active in Europe are involved in these kinds of practices. That's to be expected.

For years now, unions, women's organisations, consumer groups, world shops and solidarity movements from around the world have been campaigning to improve these sorts of business practices. The campaigns have established that workers' conditions are the responsibility of the large producers and retailers of clothing. Many of these companies have, in the meantime, accepted this in principle and claimed to have drafted policies that accommodate these demands. They write their own codes of conduct, claim that their buyers are sensitive to these issues or even create their own research bureaus. But the campaigns remain critical and insist that what the companies have done thus far isn't enough. What else should be done? How does one improve the working conditions in the garment industry? What is involved? And who is responsible?

Where do corporations currently stand regarding codes of conduct and what are the most current agreements they have made with the Clean Clothes Campaign? This pamphlet will address these questions and examine various codes of conduct and monitoring methods.





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KEEPING THE WORK FLOOR CLEAN

1. THE CHAIN

To be able to discuss how working conditions in the clothing industry can be improved, we must first learn something about the structure and power relations within that industry. These issues will be discussed in this section.

Retail companies are the biggest players in the garment industry. Large clothing retailers among European retail companies include, for example, C&A, H&M, Otto Versand, Marks & Spencer and La Redoute. However the manufacturers of their clothing are not owned by these large retail companies. The clothing is mostly produced by subcontractors. This is one way that companies avoid risks and responsibilities, allowing them to concentrate on the area where the highest profits are to be made — in retailing.

In the clothing manufacturing industry itself there are also a few very powerful manufacturers. Just think of jeans and you think of the manufacturer, Levi Strauss. These kinds of companies often maintain a few of their own manufacturing plants, but they also do a lot of subcontracting. Their products are usually sold by other stores although some of them have a few of their own brand name stores as well. The differences between retail companies and manufacturers becomes increasingly vague every day. The sporting goods industry is particularly dominated by a few large manufacturers such as Nike, Adidas, Reebok and Puma. Here too, the lion's share of production is done by subcontractors.

Searching for the Best Location

Subcontracting can be organized in several different ways. Now we will try to take a closer look at several of these. In general, companies attempt to shift risks to other sectors. But at the same time, they try to maintain as much control over production as possible and do this all as cheaply as possible. Because the garment industry does not need much in the way of capital investment — a few sewing machines go a long way — it is fairly easy to move production operations. Because of increasingly rapid communications systems and improved transportation, the moves can be made relatively easily to and from anywhere in the world. Companies are always on the lookout for newer locations that better suit their needs. Low wages are always an attractive perk, as well as a good infrastructure, tax breaks, favorable import-export conditions, the absence of unions and a government that doesn't concern itself with labour and environmental legislation.

In the 1960s and '70s Europe experienced its first factory closings and saw the companies move to such popular new destinations as South Korea, Taiwan, Tunisia and Hong Kong. Actually, after a few years the wages started to rise in these new locations as well, because, among other reasons, stronger trade unions emerged, and the next generation of moves followed. Thailand, the Philippines, Bangladesh, India, Sri Lanka are the nations which became popular in the '80s and which are, for the most part, still where much of the clothing manufacturing takes place. Newer destinations include Cambodia, Laos, Burma, Vietnam, and especially China. Eastern Europe has also become an important clothing producer in the last few years. It's true that the wages are higher there than in Asia, but the shorter distances to Western European stores made this region an attractive choice for new factories, especially for the so-called ready-to-wear lines. Africa, in places like Mauritius, Madagascar and Zimbabwe, is also becoming home to many clothing manufacturers who produce for the European

market. Central American plants produce mainly for the North American marketplace. A portion of production has even "returned" to Western Europe, in the form of ateliers in larger cities and homeworkers.

Subcontracted, Subcontracted and Subcontracted Again

A European clothing retailer sometimes has hundreds, sometimes even thousands of locations around the world where their garments are manufactured. The factories and ateliers which do this sort of work are not owned by the company, but do remain beholden to the specification put forth by the company. There are strict agreements regarding quality and delivery times. If the factories or ateliers do not meet these demands, the order can be canceled and payment stopped. The price the factory receives is, in effect, dictated by the retail companies. The factory can of course, try to negotiate the terms but because of the intense competition, there is not much room for negotiating. "If you don't want to abide by our terms, there's ten who are glad to take your place." Factories solve this problem by accepting unprofitable contracts. They solve this problem by further subcontracting yet another aspect of the production to another factory or atelier for an even lower price. They, in their turn, can do the same thing. At the bottom, at the end of the chain, we see many small ateliers and homeworkers. There the wages and working conditions are, for the most part, the worst.

Middlemen

Between the retail companies in Europe and the factories in Asia, Eastern Europe or Africa one finds the middlemen. These are the buying offices, buying houses, importers, agents and traders. The distinctions between these sorts of businesspeople is vague. Buying offices and buying houses are strictly controlled by the retail company; while importers, agents and traders operate independently. In general, these middlemen concern themselves with the following elements:

- Communication between the retail company and the factory, the solving of problems
- Sourcing: searching for new factories and ateliers that can produce what the retail company wants
- Quality control: to make sure that the final product actually fulfills the criteria set forth by the retail company. This usually involves three phases. First comes the sampling. A designer from the retail company makes a sample garment and sends it on to the factory which must manufacture it as best as they can. Then the garment is inspected to make sure that the factory can achieve the proper standards of quality. After that comes the inline inspection. During production, which can last anywhere from a few weeks to several months, there are inspections to determine that all is going well. To conclude, there is the final inspection, also called the preshipment inspection; the garments are finished and are inspected just prior to their shipment to the European market.
- Sometimes middlemen are also expected to purchase the raw materials (fabric, thread, odds and ends) but mostly this remains the factory's responsibility.

The buying office is usually owned by the retail company. Most of the time it has the same name as the retail company and it usually works exclusively for that company. A buying house, on the other hand, is not owned by the retail company and usually deals with a number of different clients as long as they are not in direct competition with one another. In actual practice, this means that buying houses cannot have clients in the same country. But a buying office, with essentially the same duties as a buying house, remains totally under the supervision of the retail firm.

Agents and traders often have many clients and they sometimes establish short-term relationships with retail companies. Their best bet is to have clients who are in direct competition with one another. In many cases, in fact, the retail firm doesn't even know who the agent's or trader's other clients are. The agent or traders accept orders from retail firms and then go hunting for a factory or an atelier that can do the work. Sometimes they have their own factories to which they farm out (mostly the best) orders; but they also use other manufacturers. Buying offices and buying houses can also farm out work to agents and traders; then they don't have to be accountable for the quality control themselves.

It is safer and cheaper for a retail company to maintain control over the middlemen. But it does require some investment, which for small companies is often not feasible. When a retail company begins working with a buying office or buying house there is often a period when the company must first work with agents and traders. And even when they start working with buying offices and buying houses, a portion of the orders are still placed with agents and traders. Thus a company's "own" buying office or buying house might actually compete with the agents and traders.



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2. CODES AND MONITORING

Codes of conduct: either the company itself has one, is drawing one up, or is talking about drawing one up. Various activist organizations are pleading for codes, but then these codes have to be good codes. What is a good code? Independent monitoring seems to be one crucial aspect, but what's independent? These are the questions that will be answered in this section.

Companies that have come under fire from various campaigns and activists have slowly but surely learned that they need to stay one step ahead of their critics. If they get stuck in constantly denying charges or reacting to incidents, it can only mean bad publicity and the constant threat of being confronted with new scandals. So it's no coincidence then, that the companies who have borne most of the criticism, now have been in the forefront of developing policies to proactively deal with criticism. Codes of conduct are now a common weapon in their arsenals. If we look at the garment and sporting goods sectors we see that American companies have set the pace in this area. In 1991, Levi Strauss named their code "Global Sourcing and Operating Guidelines" and became the first company to take such a step. Now, some seven or eight years later, there is almost no major American clothing company that doesn't have a code of conduct. Nike, Reebok, The Gap, to name just a few who are also active in Europe, all have their own codes of conduct.

European Followers of Fashion

In Europe this trend is being quickly snapped up and emulated. We can see that here as well. The companies that have borne the brunt of the criticism from campaigns were the first to develop such policies. C&A, Otto Versand and H&M have all developed codes of conduct over the past few years. All of these company codes are different. Most of them say something about child labor or forced labor, and about complying with local legislation and for the most part want it to be known that they are making an "honest" effort to comply within their own companies and subcontractors. Some go somewhat further and refer to the ILO Conventions. Over the last few years, a number of companies have accepted the notion in their codes of workers organizing and of collective bargaining.

More Criticism

The various campaigns believe that this is still not enough. What is wrong with these company codes? Aren't the companies doing their best? There are four fundamental criticisms that can be leveled at all of the company codes of conduct.

Limited in Content

In the first place, all of these company codes are limited in their content. Some of them are dreadful; some, for instance, mention little more than child labor. Others are much better and refer to such issues as discrimination, job safety, health, the right to organize and the right to collective bargaining, but then fail to mention anything about wages. There is not one company code that fulfills all of the following:

* The right to organize and collective bargaining

- * No forced labor
- * No child labor
- * No discrimination
- * A maximum number of work hours per week
- * Job safety and health
- * A living wage
- * Establishment of the employment relationship

Vague Texts

Secondly, many of the company codes often contain vague texts which are difficult to interpret. This also makes it difficult to determine whether a company is actually abiding by its own code. Reebok, for instance, states in its code: "Reebok will seek business partners that share our commitment to the betterment of wage and benefit levels that address the basic needs of workers and their families so far as possible and appropriate in the light of national practices and conditions."

Reebok's code isn't even such a bad one, but as soon as we find grossly underpaid Reebok workers, we quickly realize that Reebok can go any which way with the wording in their codes. First off they can say "we will seek business partners, etc." meaning that maybe they have not yet found these appropriate business partners. "Commitment" is of course, also a nice vague term: perhaps this factory is genuinely dedicated to bettering working conditions if only they had the money to do so. After all, "so far as possible and appropriate in the light of national practices and conditions" is always a nice way out. Doesn't this basically mean that if all the factories in the region are paying substandard minimum wages then it's OK for Reebok to do the same? Good codes have comprehensible texts with no escape clauses. The best texts should refer, for instance, to the ILO Conventions or other international treaties.

Limited Accountability

Thirdly, it's often not very clear in company codes just how far the accountability of the company goes. Does the code also apply to the employees working for one of its subcontractors? And what if this factory further subcontracts the work? What about homeworkers? And people who work in ateliers in Europe? Migrant workers without residence permits? A good code must address all the employees who produce for the company, regardless of where they live or what their status is. The code must cover the entire subcontracting network.

Implementation & Monitoring

And lastly, we come to the crucial point of implementation and monitoring. Many company codes never depart from their public relations function. They are written for the express purpose of answering campaign critics, and were never intended to actually be implemented. With a growing urgency companies insist that they are implementing their codes. But questions of whether this is indeed the case, and if it is true, whether the codes go far enough remain. As long as companies keep all of these issues behind closed doors or in the hands of their public relations departments it remains very difficult to form an accurate opinion about what the companies are actually doing. Companies which refuse some form of independent monitoring apparently still have something to hide.

Independent Monitoring

When is monitoring independent? Independent from whom? The companies are fairly willing to declare that they already have independent monitoring. What they mean is that they have, for instance, set up a separate department within the company or a new subsidiary whose assignment is to assure that the company's code of conduct is complied with. "Independent from our purchasing department," the company declares. Yes, but it's still the company itself that is doing the investigating.

Some go one step further and hire an outside firm, for instance, an international accounting firm, to carry out the monitoring for them.

"Independent of the company," the company declares. Yes, but the information that is gathered is still only available to the company itself. As a consumer you still don't know what's happening, never mind how the company handles the problem when their code is not being observed. A common reaction is simply to stop doing business with a particular problematic subcontractor. For the employees of the subcontractor this is not an improvement. They still face the same poor working conditions. In a worst-case scenario, if the subcontractor was totally dependent for its business on this company which is now severing its ties, the workers will find themselves without a job.

So "independent" doesn't just mean that the company itself is not performing the monitoring, but also that there's a sort of public supervisory board that the company is beholden to. Employees must in one way or another have a direct voice in this kind of monitoring system.

They have the right to work under the working conditions as described in the company's own codes. Consumers must also be represented in this process. They have the right to know whether a company is actually observing its own code. Only then can consumers begin to make truly ethical choices when buying products from a particular company. "Independent monitoring" then can be described as monitoring that involves both trade unions and NGOs at the highest level of decision-making.

The monitoring itself (unannounced inspections of factories, interviews with workers) does not need to actually be performed by trade unions or NGOs, but they should be involved in how the monitoring is set up, how it will be implemented and what happens with the information that is gathered. In the following section we will look at concrete examples of independent monitoring, as well as how it should be structured.



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3. THE FOUNDATION MODEL

One Code for Everyone

The Clean Clothes Campaign is currently active in 10 European countries (the Netherlands, Belgium, France, Spain, Great Britain, Germany, Austria, Switzerland, Italy and Sweden). Coalitions of trade unions and NGOs that pressure companies to take responsibility for the working conditions under which their clothing and sports shoes are being produced can also be found in the United States, Canada and Australia. International trade unions are also active in this area. So it is important to coordinate the work of all these groups and initiatives into a cohesive plan. It is also important to prevent companies from just picking and choosing the most lax code from the variety of "trade union- and NGO-approved codes," or a code that will allow them to short-circuit criticism and string along all their critics.

In 1997, the Clean Clothes Campaign and the international trade union secretariats began discussing the possibilities of developing one code of conduct for the garment and sportswear industry. This took some time because this code would naturally have to be the best and contain no corporate loopholes. In the beginning of 1998 an agreement was reached for a "Code of Labour Practices for the Apparel Industry Including Sportswear". This particular code of conduct fulfills all the aforementioned requirements for a good code. This code contains all the basic demands, is extended to cover the entire subcontracting network, refers to the ILO conventions and will be independently monitored according to the foundation model. Approximately 200 organisations worldwide have subscribed to the "Code of Labour Practices" and the total continues to increase.

This code contains a number of principles which describe how to institute an independent monitoring system. This is being worked out in practice on various national levels. The model for these principles is known as the foundation model, because the highest level of decision-making takes place in a multi-partite foundation in which companies, trade unions and NGOs are all represented. What follows is a description of the foundation model as an ideal prototype.

The Ideal Prototype

The foundation's duty is to recruit companies to accept the code of conduct. If a company accepts the code, they are allowed to use a special certification seal in their stores. In this way they can present themselves positively to the conscientious consumer. After a certain transition period, all the clothes in these stores must meet all the demands as stipulated in the code. Thus a company can't just have one rack of "clean clothes" for public relations purposes. They won't be able to get away with this kind of thing so easily. "Clean clothes" shouldn't be something purchased in a special chic boutique. The issue is companies meeting basic demands that will lead to improved working conditions. That workers earn a living wage, are allowed to join a trade union and are not required to work 80 hours per week should *not* be presented as something peculiar.

The foundation will also concern itself with presenting information, arranging for investigations, exchanging information, advising companies on how to best meet the code's requirements and providing for international coordination of similar initiatives in other

countries. The foundation's board consists of four parties: producers, stores, trade unions and NGOs. They, in their capacity, choose an independent chairperson.

A&B Wants To

What happens when department store A&B decides to sign the code of conduct? First, A&B makes an appointment with the foundation. If subsidiaries of A&B also want to sign the code they have to do so independently of A&B. To be considered, A&B must first offer insight into the company's structure and its purchasing and/or subcontracting network. Beside that, A&B must present a plan on how it intends to implement the code. Here they must answer such questions as: who inside the company will be responsible for making sure everyone affected complies with the code? Who is responsible for making sure that the code is being properly implemented? How is management involved in all this? Will the code be used in the drafting of all contracts that the company signs with its subcontractors?

If the information provided by A&B is sufficient and A&B's implementation plans are good enough, the seal will be granted to A&B. Now begins the real work, because A&B must now begin actually implementing the code. To begin with, A&B has to disseminate the plan they presented to the foundation. A&B must inform everyone in the company of their plans, see to it that responsible people are appointed, that timely progress reports are issued to the board of directors and that the code is tied to all contracts signed between A&B and its subcontractors.

The foundation verifies whether A&B is actually doing all of these things. But A&B also has obligations to all of its subcontractors. We have already seen that for most companies most of their production takes place in this realm. What then is A&B expected to do to ensure that the working conditions begin to improve in this sector?

To begin with, the subcontractors naturally have to know that the code exists and what it contains. They must also be made aware of its importance; that it's not just a piece of paper. Now, many Asian plant managers say, "Oh yes, the companies are all sending us their codes. You're just supposed to sign the thing and send it back, and that's what we do." Because there are no consequences attached to the piece of paper beyond signing it, it never occurs to them that they should be improving the working conditions in their factories.

A&B has to keep track of their subcontractors (i.e. who should comply with the codes) and then supply this information to the foundation. They also have to ensure that all their subcontractors allow independent investigators to visit their factories. They arrive unannounced and look around in the factory, advise the management and interview workers outside the factory environment about their working conditions.

Finally, A&B has to establish a strict schedule for implementation of the code to be able to decide whether they are or are not being observed. These procedures have to be approved by the foundation. Then if the code is violated, these procedures will go into effect. But if the subcontractor has previously violated the same part of the code then A&B is within its rights to stop doing business with this subcontractor. And if the subcontractor refuses to do anything to rectify the situation the same applies. General guidelines are presently being drawn up to indicate when a retail company can sever a relationship with a subcontractor on the grounds that the subcontractor has knowingly violated the code. In principle, it's the foundation which ultimately decides.

A transition period can be instituted by the foundation so that A&B does not have to meet the code's demands all at once, or so that not all of the company's garments meet the code's standards immediately. This period can amount to a total of five years, but there is a schedule marked out for the company to follow. Thus, there is no way for A&B to go a full 3 years without doing anything and then suddenly begin to apply the code. These steps are all set out in the details of the contract between A&B and the foundation. The contract also indicates what type of information A&B must supply to the foundation and how often it must do so. The contract also provides information on how much A&B must pay the foundation and in what ways they can make it known that they signed the code of conduct. On the other side, the foundation's responsibilities are also laid out in the contract. For instance, it guarantees confidentiality regarding company data. Naturally, A&B doesn't want competitor Y&Z to know where A&B buys from (i.e. A&B's suppliers). In principle, this sort of data is confidential. The foundation can only release certain data related to A&B if A&B does not fulfill its end of the contract. When this is permitted and what exactly can be made public is all included in the contract. Finally, all the procedures for monitoring compliance are included in the contract.

This kind of contract between A&B and the foundation can include various clauses depending on the size of company A&B. It's clear that a company that has one store can never fulfill all of the requirements stipulated above, due to a lack of resources and power. The foundation model was intended for large retail firms and large producers. But small companies can also begin working under a code, the only difference is that their influence will not stretch as far. They certainly can provide insight and be sure that improvements are instituted. The smaller

company's actual responsibilities will be determined by the details of the contract between the company and the foundation. But the principles will not be compromised: if the company grows their responsibilities will increase.

Monitors Again

The responsibility for monitoring the compliance of the code of conduct lies with the foundation. But the foundation itself does not perform the monitoring functions. They hire a monitoring agency for that, for instance, a quality control firm that is already active in the garment industry. However, before this kind of company can be approved by the foundation however, it has to prove that it has an understanding of the garment industry and its working conditions. This company also needs to prove that it is independent from the companies it will be called upon to investigate as well as independent of the foundation itself. This investigator receives data about A&B's subcontractors from the foundation. The investigator then makes some unannounced visits to the various subcontractors of A&B and makes on-site notes about the subcontractor's working conditions. The investigator is also entitled to interview workers in such a manner that the management of the factory is kept unaware of whom the investigator has spoken to and the substance of what was said. The investigators are also sent out on call if a complaint has been filed. That can be done directly or through the local organisation that received the complaint and redirected it to the foundation.

A Flawed Mess

A trade union in Bangladesh files a complaint with the foundation. In Star Apparel's factory six trade union activists have been fired because of their attempts to start a union inside the factory. The factory is consistently late in paying its workers and cheats them out of overtime pay. Star Apparel produces for, among others, A&B. The foundation sends an investigator who decides that the trade unionists were right. What happens next? First, the foundation informs A&B of the fact that Star Apparel is violating the code of conduct. The foundation also informs A&B on how to proceed.

In this case, A&B should make contact with the factory and tell the owner that they demand that the fired workers be reinstated, that Star accepts the fact that trade unions will be allowed to organise inside their factory and that they will pay all back wages. A&B can, for instance, demand that Star produce a report within two weeks that outlines the steps Star is willing to take to resolve the current crisis. Naturally the foundation will monitor the situation. As long as A&B does what it is told, there are no problems for A&B. If A&B is an important enough client of Star's then the factory will probably want to cooperate.

If A&B's demands are not acted upon then a second attempt is made to compel the factory to abide by the code, but if that also does not work, then A&B will ultimately sever its business relations with Star. The foundation closely follows what A&B does. If A&B does not follow the foundation's advice then the matter can be made public. That means, in any case, that A&B will suffer embarrassing negative publicity. If it happens again the foundation can revoke A&B's seal.

If this ideal prototype were to be instituted, we will naturally and almost immediately come up against a number of practical drawbacks and problems. These can be dealt with in a creative manner without compromising the model's basic principles. The first initiatives to this end will require a look at the different nations where the campaigns have already entered into agreements with the business sector and how they institute codes of conduct. That is the subject of the next section.



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4. Negotiations in Europe

The "Polder Model"

The Dutch Clean Clothes Campaign along with the trade union federation, FNV, and the development NGO, NOVIB, have formed the Fair Trade Charter Work Group, which also includes the trade union federation, CNV. This group negotiates the details of the independent monitoring system with various businesses and sectoral organisations. In 1996, this led to a preliminary agreement with a number of departmental organisations. The MITEX, an organisation that represents the small and mid-sized garment retailers, FENECON, an organisation representing garment producers, and the NKC, the Netherlands Clothing Convention, an organisation that sets delivery standards, came to a preliminary agreement with the Fair Trade Charter Work Group to create a foundation that follows the aforementioned model.

This was an enormous step forward. It's true however, that at this moment there is not one single company that has agreed to the code, but if one sectoral organisation calls on them to rise to the occasion, it will mean more weight than back when it was only consumers and trade unions agitating for this sort of thing. Back then it still needed to be clarified what the exact functions of the foundation would be and what the role of all those concerned would be. It took quite some time. Two years later however we have an agreement regarding the text of the code and the structure of the foundation, as well as a plan that describes how the project will evolve in the coming two years towards a realization of a working monitoring system.

Problems at the Negotiating Table

The reason it took so long for this agreement of principle to evolve into an actual agreement, has to do with the sizeable number of views regarding just how such a monitoring system should look. These various views surface again when one negotiates these issues in different countries. First of all, the division of responsibilities between the investigators and the foundation.

Businesses, in general, prefer a system that limits the role of the foundation as much as possible. They want a system where the foundation approves inspectors, but then allows the companies want to be able to choose from among them, an inspector who will work for them. In general we can see that information about working conditions has to be gathered from two sources. The

first source is the investigators themselves who physically go to the factories and interview workers. The other is the complaint procedure or feedback mechanism, by which workers, unions or third party sources can channel their feedback into the system, for example by filing. This second part, the complaint procedure, is the part that companies want to minimize as much as possible. The trade unions and NGOs do not agree with this at all; they want a much more important role for the complaint/feedback mechanism within the foundation system, because this is the channel through which the workers can access the system. Another contrast occurs when discussing the importance given to "third party" monitoring within the system. The companies, in general, prefer a system where the company performs most of the inspection process itself. They see the role of an outside inspector mostly as one of monitoring the steps the company takes to implement the code. Trade unions and NGOs in general, want more importance focused on on-site inspection of factories by outside inspectors.

In the Dutch agreement a number of basic principles were formulated that will be the basis for the next phase in developing the monitoring system with regard to complaints. This system will be inline with the standards of the European Organisation for Testing and Certification (EOTC). These standards include:

- * Each interested party (thus, including on-site employees or their representatives) can file a complaint with the certified authority (the foundation).
- * The certified authority must allow each interested party access to an independent appeals court in the case of a dispute over a decision made by the authority.
- * Absolute confidentiality of these affairs is guaranteed. Confidentiality can be of great importance for employees as well as for companies who have consented to being evaluated. The protection of the legal status of an employee-plaintiff makes it essential that the anonymity of the complainant be guaranteed and that the complaint will only lead to a more specific investigation after the consent of the plaintiff. The principle of listening to both sides in this type of case must also be agreed to. This means that sanctions with regard to the company-defendant can only be applied after the investigation has been completed and the investigation's results have been turned over to the firm's management and then, only after the company has had a chance to reply and take corrective measures.

Guiding principles

In addition to these ideas on the complaints procedure, a number of underlying principles for the "Fair Wear Charter Foundation" monitoring project plan have been discussed.

Though the agreement between the company and the foundation is of an essentially voluntary nature, it is entirely possible that after a number of years the standards demanded by the foundation become so normal that they become part of the fundamental requirements that are part of the EU regulatory framework (notably the CE marking system). The focus on basic labour standards means that everyone should join -- the foundation does not intend to give the trademark (or seal) for the express purpose of distinguishing participants from their competitors. It should become normal to have it.

The monitoring system will be based on the management-chain, within which identification of the origin of different product groups will be possible. The company will have to structure their management system in such a way that implementation, monitoring and verification become possible. Then they can join the foundation, and comply with its regulations.

Implementation and monitoring of implementation has to be done to a large extent by the companies themselves, but third party verification is essential (where necessary this should include on-the-spot verification at the supplier or subcontractor level).

The monitoring system has to lead to an improvement of labour conditions. In those situations where an immediate improvement or even an immediate assessment is not feasible, this needs to be recognized, and then plans to make this assessment possible should be developed. This also means that corrective actions (and procedures for corrective actions) are of the utmost importance.

Some situations need more time, such as creating a fully dependable monitoring system of the working conditions of homeworkers. In these situations, it's good not to make concessions in the standard phrasing of the codes (because homeworkers also have a right to a living wage) but to recognize that at least temporarily, companies cannot yet be judged on this and in the mean time, a plan is needed to adequately deal with these types of situations. A development approach needs to be chosen again once we formulate the required corrective measures which will address cases where there are deviations from code standards. The punitive measure will usually not consist of terminating the contract. It is better to formulate and monitor (possibly supported by the foundation) actions that will lead to improvements.

France

In France, the first agreement between a clothing firm and the Clean Clothes Campaign was finalized with the department store chain, Auchan, at the end of 1997. The company accepted a code of conduct and the principle of independent monitoring. The first step, underway now, is the creation of an internal monitoring system. The French Clean Clothes Campaign participated in a training course offered by Auchan for their buyers. The goal is to have a working system within five years. The first pilot projects are expected to get off the ground in February, 1999 in Vietnam, Madagascar or Bangladesh.

Negotiations with Carrefour, another French retailer, are in the final stages. Carrefour agrees with the principle of independent monitoring, but has not (yet) agreed to the notions of the right to organise and the right to collective bargaining. Carrefour has taken the first steps to implement their own code in Bangladesh. In October 1998, the Federation of Trade & Distribution (FDC), the supermarket employers organisation, decided to accept a code of conduct and to begin experimenting with an independent monitoring system based on the SA8000 model (see section 6). Both Auchan and Carrefour are members of the FDC. At least three other member companies of the FDC will begin to participate in the experiment. The Clean Clothes Campaign will participate in a special committee that has been created for this purpose.

Sweden

The Clean Clothes Campaign was initiated in Sweden in September 1997 and within that first year their efforts lead to dramatic results. In the summer of 1998, the Swedish Clean Clothes Campaign signed a declaration of intent with four Swedish clothing retailers: Hennes & Mauritz, Indiska, KappAhl and Lindex. In this declaration they indicated that the four would work together to implement an independent monitoring system.

In the initiative's first phase, which goes until March 1999, the main task is for everyone to familiarize themselves with the various existing monitoring systems and to extend their contracts to include contacts with trade unions and NGOs in three garment-producing nations -- Bangladesh, India and China. In April 1999, a prototype of the representative monitoring system will be

unveiled. From May until December 1999 the pilot studies will be implemented in two places. The goal of these projects is that the work situation in factories be improved and that the owners of these factories be made aware that it is in their own best interests to respect the rights of their employees. In the final phase of this project, a monitoring committee will be formed and an action plan implemented. At this point personnel will be hired and contracts signed with Swedish clothing retailers, with companies who will do the monitoring and with organisations in the garment-producing countries.

Great Britain

In Great Britain, the Ethical Trading Initiative (ETI) was created. This is a collaboration of trade unions, NGOs and companies whose goal is to draft a code of conduct and monitoring systems through which companies together with various organisations outside of the industry milieu can work together to improve working conditions around the world. From the clothing industry, the firms C&A, Grattan and Littlewoods are taking part in the initiative. The American sporting goods firm, Reebok, is also participating. Beyond that, other industries are also represented, for instance supermarkets.

The ETI is based on a number of principles. They include:

- * Inspection is carried out against a Code of Practice based on International Labour Organisation standards
- * Verification of labour conditions is undertaken by independent and trusted people or organisations
- * Confidentiality of the information concerning individual companies and suppliers is maintained, so they are able to address shortfalls in conditions in an agreed timetable
- * Inspection visits include suitably confidential interviews with workers or their representatives, who are protected from the negative consequences of their involvement
- * Companies and their suppliers, local NGOs and trade unions will co-operate to improve working conditions where necessary so that the position of workers is not undermined

In the next few years, the ETI will conduct various pilot studies to give groups from the South the opportunity to gain practical experience in the area of monitoring. The Pilots are intended to:

- * Test different models of inspection and verification of labour standards
 - * Investigate different ways in which local partners (including NGOs and Trade Unions) can participate in the inspection and verification process, and in defining the way codes are implemented in the local situation
- Identify the capacity and other needs of partners to enable the development of a trusted monitoring and verification system

Format

These ETI pilots will be made up of a number of stages:

- * Identifying potential partners (commercial, union, NGO and other) who could be involved with the pilot and ensuring they understand the purpose and work of the Ethical Trading Initiative
- * Initial meetings with the partners to identify potential roles, and to review concerns and questions and define the types of inspection and verification appropriate to the local situation, which can be tested in the pilot
- * A professionally detached 'baseline' survey of the main stakeholder groups to identify the main issues, current experiences and perceptions of Codes of Practice, relationships between the stakeholders
- * A small number of inspection visits of suppliers participating in the pilot, undertaken according to a model agreed between the members of ETI on the basis of discussions and the baseline survey. Appropriate forms of verification are also included
- * Corrective action plans are agreed between the companies and suppliers,

with input from local partners as required by the model

* A follow-up survey, some time after the visits (and probably repeated later) to identify changes in employment conditions as a result, but also to explore the changes in perceptions and experiences of the stakeholders.

The key questions will be:

What was the direct impact of the pilot?

What were the unforeseen consequences?

Did the inspection/verification model work – correctly report the conditions

Were the corrective actions appropriate and effective?

Did the local partnerships work? Why?

What were the problem areas?

What improvements could be introduced?

Could a system like this work in the longer term?

What else needs to be done for this to work in the future?

What roles could the local partners play in a future system?

Participants

In each pilot, as far as is possible, the following groups are involved:

* Internationally recognised trade unions representing the workers involved

* Suppliers to be inspected as part of the pilot

* Commercial organisations representing the suppliers as a group

* Internationally recognised non-commercial non-governmental organisations (NGOs) working with or defending the interests of the affected communities and/or unorganised workers

* Relevant government departments (eg. labour inspectorates), where they wish to participate

Roles

The roles of the supplier are clear, but the NGO and union partners can play a number of different roles within the pilot, depending on their capacity and interest. Primarily, the purpose of their involvement is to ensure that the findings of the pilot and the recommended approach to inspection and verification are trusted. They may individually or collectively wish to act as:

* Independent 'witnesses' in the inspection or verification system under test

* Independent verifiers, or the body commissioning independent verification

* Consultants to evaluate the impact and effectiveness of the monitoring and verification system under test

European Cooperation

In October 1998, it was announced that for a number of companies, particularly European companies, it was necessary to begin working together on an international level. This concerns the following companies who operate in various countries and are being pressured by numerous campaigns: Nike, Adidas, C&A, Benetton, Levi Strauss, Hennes & Mauritz, La Redoute, Otto Versand, and Promodes. Around these companies various liaison groups have been set up, through which all communication with and about the various companies is well coordinated.

Next to that, an international monitoring working group was set up. The purpose is to finally walk down the same path toward the realisation of the "Code of Labour Practices for the Apparel Industry Including Sportswear," with all the campaigns, the international trade union secretariats and other relevant participants leading to a united proposal on how the monitoring system will operate while developing an impression of what a good, independent monitoring system should be. First, the various pilot projects have to be tuned into one another and it's important that there be a reliable information exchange set up. The creation of a good mailing list will go a long way to this end.

Companies who want to start with something concrete even though there is no functioning monitoring system yet in place, can begin by signing the declaration of intent in cooperation with the campaign. With this the company declares that it accepts the code and will institute it, that they accept the basic principles for independent monitoring and that they have already begun instituting internal procedures within the company for the eventual implementation of the monitoring system. This can be done in cooperation with the campaign.

A list of the basic principles for independent monitoring are found in the "Code for Labour Practices for the Apparel Industry including Sportswear":

- * Monitoring must be by the actual observance of working conditions through unannounced inspection visits ("spot checks") to all workplaces covered by the code;
- * The frequency of inspections must be established;
- * Accredited monitors must be permitted to interview workers on a confidential basis;
- * In addition to regular or routine inspections, inspections shall be undertaken at specific locations, following substantiated complaints, where there is sufficient reason to believe that the code is not being observed;
- * Inspections shall be conducted in a way which does not cause undue disruption to the performance of work in the premises being inspected;
- * Written reports shall be provided by accredited monitors to all parties and to the participating company concerned following each visit.
- * The Foundation may seek other sources of information concerning compliance with the code including consulting appropriate trade union organisations, human rights organisations, religious and other similar institutions in order to obtain additional information on a certain company or in order to investigate a certain complaint.
- * If violations of the code are found, the company must agree to accept the recommendation of the Foundation. This recommendation shall, in the first instance, be aimed at improving the existing situation. Where such improvement is not possible or satisfactory, then the Foundation can oblige companies to renegotiate, terminate or refuse to renew their contracts with certain contractors, subcontractors and/or suppliers.
- * Where companies fail to observe their agreement with the Foundation it is understood that the Foundation may release any relevant information to the public and may terminate the contract between the company and the Foundation.
- * The independent monitoring process shall form the basis for any public claims by the Foundation or by participating companies as to the operation of the code or concerning the actual labour practices covered by the code.



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5. CLINTON AGREES

In August 1996, the United States set up a special presidential task force called the White House Apparel Industry Partnership (AIP). This is a coalition of trade unions, NGOs and companies who began to negotiate a code and monitoring system. It specifically concerns the US clothing industry and some participants that are well-known in Europe, such as Nike and Reebok. After months of negotiations, an agreement was reached in April 1997 concerning a code of conduct for the entire US garment industry.

The AIP code refers to a minimum wage instead of a living wage, and seeing that in many countries a minimum wage falls far below even a subsistence level wage there has been much criticism about this. Rev. David Schilling, of the ICCR (Interfaith Center on Corporate Responsibility) has noted: "A factory may be clean, well organized and monitored, but unless the workers are paid a sustainable living wage, it is still a sweatshop."

Another critical difference concerns the maximum hours in a work week. According to the AIP code, a 60-hour work week is allowed and even longer work weeks in cases of "exceptional circumstances". According to the Code of Labour Practices the maximum work week amounts to 48 hours and never more than 60 hours per week, and even this maximum is not to occur week after week.

The Code of Labour Practices also stipulates that overtime must always be paid at a higher rate than the standard hourly rate. The AIP code states that legal regulations should be followed, and if there are no legal regulations for the payment of overtime, then at least the standard hourly wage has to be paid. Labour unions all over the world call for overtime to be paid at a higher rate than the regular hourly wage in order to force employers to respect legally determined limits on hours.

The notion of an independent monitoring system however does find its way into the code. A committee would here be established, similar to the foundation model, which would give further form to the monitoring system. A deadline of six months was placed on this project, but this was not met. The problems at the negotiating table were, for the most part, the same ones encountered in similar negotiations in the Netherlands which were mentioned in the previous section. In addition to that, there was also another problem, the composition of the board: the trade unions and NGOs demanded a majority but the companies disagreed.

Discord Around the Agreement

In the meantime, after the negotiations had reached a dead end, a sort of subgroup emerged from the proceedings. This group consisted of: Liz Claiborne, Nike, Reebok, Phillips Van Heusen, Business for Social Responsibility, the Lawyers Committee for Human Rights, the National Consumers League, the International Labor Rights Fund and the Kennedy Memorial Center for Human Rights.

On November 4, 1998, this subgroup came up with its own agreement which was then presented to the rest of the members. For some members this new agreement was just full of insurmountable objections. The garment workers union, UNITE, the Retail, Wholesale and Department Store Union and the ICCR refused to sign this declaration. However, companies

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like L.L. Bean, Patagonia, Nicole Miller and Kathie Lee Gifford did accept the agreement.

There is a new organisation that is being created by both the companies, unions and NGOs, which will oversee working conditions, monitoring and to what extent the companies abide by the code. This new organisation, named the Fair Labor Association (FLA), decides who can become a monitor in the new system. The board of the FLA is made up of seven people: three from the business sector, three from trade unions and NGOs and one independent chairperson.

Companies that want to be certified decide which of their brands they want the code applied to. These are the so-called "Applicable Brands," which are made up of the following:

- * the brands that account for the greatest percentage of the company's annual consolidated revenues;
- * any individual brand that accounts for more than 30% of the company's annual consolidated revenues;
- * any brand which bears the company's name.

Ultimately the target is to certify all of a company's brand names. The factories where the Applicable Brands garments are produced are considered Applicable Facilities, which fall under the jurisdiction of the monitoring system. An exception will be made for so-called "De Minimis Facilities." These include: "Facilities with which the company contracts for production for six months or less in any 24-month period or in which the company accounts for 10% or less of the annual production of such facility." A limit will be established on how many De Minimis Facilities a company will be allowed to have: "In no event shall De Minimis Facilities constitute more than 15% of the total of all facilities of a Participating Company".

The agreement also includes statements that compel companies to monitor all their factories themselves for the first two years (for some, the first three years) after the FLA board has approved their application. Besides that, external monitors will be hired by the company to inspect at least 30% of the plants during this same period. Each year 10% of their production sites have to be inspected. The companies themselves may choose which factories will be monitored.

This is one of the more important criticisms that the trade unions and NGOs who did not sign the agreement have about this particular contract. They think that the standards established by OSHA (Occupational Safety and Health Administration) should be applied which include unannounced visits targeting the highest hazard factories (as defined by OSHA experts, not the companies) conducted by experts who are not working directly for the companies.

The discussions regarding minimum wages versus living wages remained a thorny problem. It was ultimately the factor that caused UNITE, the Retail, Wholesale and Department Store Union and the ICCR to not sign this agreement. The NGOs that did sign said that they arrived at a valuable compromise because the agreement commissioned the US Department of Labor to do a study on wages and on poverty levels in the countries where clothing and sportswear is manufactured. But critics claim that the FLA has not promised to do anything with the results of such a study.

Finally, the critics find the regulations regarding violations of the codes not strong enough. For example, Medea Benjamin, of Global Exchange, noted that "If a company fails to comply with FLA standards, it can be placed under special review for an indefinite period, without notifying the public. Moving from a special review to actual termination of a company's participation for noncompliance will be determined by a simple majority vote of the board. However, a decision to terminate a company's participation can only be made by a super majority vote, which is defined as at least two thirds of all the industry board member and two thirds of the NGO board members. Clearly this structure favors the companies and will diminish the threat of termination as an incentive for compliance."





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6. MORE MODELS: SA8000

In October 1997, the American Council on Economic Priorities (CEP) launched the SA8000 (Social Accountability 8000) system. This consists of a set of social accountability standards applied to business practices within all industrial sectors. These standards closely resemble the Code of Labour Practices mentioned earlier. They are an improvement over the AIP Code, with its inherent problems regarding wages and working hours. The differences between the CEP initiative and the Code of Labour Practice are more noticeable when we look at the establishment of the system (who is responsible for what) and who is to be monitored. In both cases, the roles of unions and NGOs are a crucial element in the discussions.

But first one more point concerning the status of the monitoring regulations. The standards for SA8000 (i.e. the code) is a fixed piece, from which companies cannot divert the monitors. There is also an extensive manual for the monitors, called the Guidance Document, which will constantly be updated. Monitors will be advised to use the Guidance Document as the basis for their work, although they are not required to use it. It is unclear what will happen when a monitor ignores these mostly good guidelines. The FLA and the Code of Labour Practices are similar in the sense that they both indicate conditions in which monitors are required to operate.

The creation of the SA8000 system differs from that of the aforementioned foundation model. In the SA8000 system the Accreditation Agency of the CEP (CEPAA) accredits companies to be able to certify other firms who agree to comply with the SA8000 system's codes. Companies that want the SA8000 certificate, can seek out one of these approved monitors. Companies that have already been accredited to be SA8000 monitors are the Swiss company, SGS-ICS Ltd. (a quality-control firm with branches all over the world), and the Norwegian company, DNV (Det Norske Veritas). The French BVQI accreditation is still pending at this time. Unions and NGOs can also be accredited as acknowledged monitors, provided that they fully meet the requirements set forth by the CEPAA. The CEPAA has an Advisory Board on which the International Textile Garment and Leather Workers Federation has a seat, and NGOs are represented as well. There are no fixed numbers of seats for the different groups. The list of advisory board members as published by CEPAA in the Guidance Document, (version three), shows a majority for industry representatives. However, this list includes the alternates of the members. It turns out that most of the companies have alternates, while the NGOs and the union do not. So, the balance in the advisory board is more equal than the list suggests. Also, the CEPAA says they want to remedy the balance and are actively looking for more union and NGO representatives. The members of the Board elect new members. In practice then, the Advisory Board is the decision-making committee of the CEPAA. It resembles the foundation found in the foundation model; there are however, a few crucial differences between the foundation model and SA8000.

First, we should look at the role played by the Advisory Board in the monitoring system and then compare it to the role that the foundation plays in the monitoring system. In the foundation model, the monitors report to the foundation. The foundation decides whether the company which is being investigated is abiding by the established standards; and in the event that they do not satisfy the standards, the foundation can decide what steps need to be taken to improve the situation. The

foundation also decides when a company's performance is unsatisfactory enough to require a revocation of its certification seal from the company.

With SA8000, the Advisory Board decides whether a company or an NGO can become an accredited monitor. The accredited monitors basically carry out their duties independently: the monitor decides whether a company it is investigating is adequately adhering to the established standards and what should follow when this is not the case. The monitor also decides when a certification seal needs to be revoked. Only the final conclusions are made public: company X has won SA8000 certification or it has lost its certification seal.

Complaints Procedure

When it comes to the complaints procedure we see a similar difference. Both models offer a complaint procedure whereby a worker or an organisation can file a complaint if they are of the opinion that the standards have been violated. In the foundation model the complaint is directed to the foundation (via a local organisation which has the facilities for accepting complaints). The foundation decides whether the complaint relates to a violation of the standards. If that is the case, the complaint will be investigated, there will be a follow-up report after which the foundation decides whether there are adequate grounds for taking action. The foundation also decides which follow-up procedures to implement.

Complaints can be filed about a certified facility by a worker at her/his place of employment, by a trade union there, or about a certification body (monitor) to that certification body. An appeal can be filed by any interested party (for example anyone or any group) about the certification of a facility, at the certification body or at the CEPAA. Certification body's must inform the CEPAA of all complaints and appeals filed with them, and provide the complaint or appeal copy and report on the resolution and audit (on a confidential basis). There is NGO and trade union involvement when an advisory board panel reviews the complaint or appeal. The CEPAA forms review panels so that they have an equal number of NGO/trade union representatives and business representatives.

Another important difference between SA8000 and the Code of Labour Practice, for instance, are the issues of who the code concerns and how far the code reaches. With the Code of Labour Practice it's the retailers or the producers in Europe who sign the code guaranteeing that all of their suppliers, including their subcontractors, will comply with this code. Thus, the rights of the homemaker, the furthest links in the subcontracting chain, are protected by the code. The investigations must be further expanded to cover the entire subcontracting network. Thus, the monitors should also be required to visit the various subcontractors and subsubcontractors as well. This undoubtedly means that the process will encounter various unforeseeable setbacks, but the principle that the code covers the entire network of contractors is ensured.

With SA8000 it's the individual producer who requests certification. In the case of the garment industry then, we are talking about the factories. A retailer or producer, in any case, can of course demand that their suppliers also become certified; but then the responsibility remains with the suppliers. In the case of large standard factories, this is not really a problem; but in the case of smaller factories and ateliers which often do the subcontracting, this can lead to some difficulties. For them it is much more difficult to meet the criteria of SA8000 because they are often left with insufficient means for doing so. In fact, in most cases, without the support of their customers and, for instance, better (more honest) prices for their work, it becomes next to impossible. Although the risk of production shifting ever more to larger factories at the expense of smaller ones exists with implementation of the Code of Labour Practices, that risk is much greater with the SA8000 system.

Subcontractors

Beyond that, the SA8000 system does not require that a facility's subcontractors be monitored for that facility to be certified. A factory has a duty to *inform* their subcontractors of SA8000 standards and to compel them to start operating in compliance with those standards. The monitors note whether the factory has followed the proper procedures to this end. But the subcontractors themselves are not observed to see if they have actually *implemented* the standards. The monitors are allowed to visit subcontractors if the company has certified this, but it is not required to do so. Just in one sector alone such as the garment industry, where something like 50% of all the work is subcontracted out, this becomes a deficiency. In the opinion of the Clean Clothes Campaign, a good proposal would include allowing complaints to be filed against uncertified companies.

Thus, there are two possibilities: either the complainant knows that the company manufactures its products using subcontractors for a certified company or the complainant doesn't know. If the complainant knows that factory X (the object of the complainant's complaint) is a subcontractor of certified company Star Apparel, then the complainant can just as easily file his complaint either with the certifier of Star Apparel or with the CEPAA. In the latter case, the CEPAA passes the complaint along to the certifier of Star Apparel anyway. This certifier, let's call him THT, contacts the person responsible at Star Apparel for the "control of suppliers". Acting in compliance with the intent of the provision for investigating suppliers, that person would diligently investigate the complaints (just those that involve noncompliance with SA8000), seek corrective actions, file a new internal audit report, confirm corrective actions and record them, and if corrective actions are not put in place after exhaustive efforts, terminate business with factory X. At THT's next inspection or full audit (no more than six months later), THT would examine how Star Apparel carried out the preceding procedures.

If satisfactory, THT reports back to the complainant. If the reports on Star Apparel come back unsatisfactory, then THT will take steps against Star Apparel, and, in the most extreme scenario, Star Apparel's certification can be revoked. In all cases, THT reports back to the complainant. If the complainant files a complaint but he or she does not know whether factory X (the business targeted by the complaint) manufactures for a certified company, another approach has to be sought. The complainant must then file his or her complaint with the CEPAA, who passes the complaint along to all the accredited monitors. They have databases which include files on all the subcontractors who manufacture for companies certified by the monitors. They check to see whether factory X appears in their database system; if so the above outlined procedures go into action.

Trade Unions and NGOs

One last important difference between the foundation model and SA8000 is in the role played by trade unions and NGOs. This was already raised in the decisions of how a company gets certified and how complaints are handled. But there is another reason why this is crucial: a monitoring system can only succeed if there is trust for the system among the workers. For instance, do they dare discuss the issues with the monitors? Do they dare to tell the truth? Do they dare to actually file complaints? This kind of system could stand to be even more honest and independent; but if the answer is "no" to these three questions then the system is bound to fail. Representatives of accredited monitors will be looked at by the workers as being in the pockets of management. The workers see men (and a few women) in suits walking around the factory with the plant manager. There is no reason to believe, based on the evidence of this kind of scene, that there won't be reprisals if they, the workers, openly discuss their working conditions. Thus involvement by unions and NGOs who are trusted by the workers is important.

The first clothing companies who have expressed a desire to work within the SA8000 system have already come forward: the German mail order company, Otto Versand, has indicated that it will assure that its "key suppliers" will become certified and abide by the SA8000 system. The French firm, Promodes, has also indicated it will begin to use the SA8000 system, and the Dutch firm, WE International, owner of the clothing retail chain Hij en Zij, has also indicated that it wants all of its suppliers to be certified. Companies from other sectors are also candidates for joining the system. Toy retail giant Toys 'R Us wants to have all of its 5,000 suppliers certified, and cosmetics firm, Avon wants its 19 factories certified. Avon's New York factory, is the first (and until now, the only) SA8000 certified company. The CEPAA is planning to establish guidelines in the utilization of SA8000 for the retailers concerned.

At the present time a clothing retailer can freely declare such things as: "we expect our suppliers to get themselves certified" or even "a large portion of our suppliers are already certified". This last type of declaration is somewhat verifiable because the list of certified companies is public, but it doesn't improve access to this information for the average consumer. The consumer is none the wiser with this kind of list. The certification seal (identity sticker) that is provided to a certified company is protected and any misuse or abuse of this seal will immediately lead to litigation against the offending company. CEPAA wants to draft procedures that will insist any company that claims it has compelled its suppliers to become certified by the SA8000 system must also allow for unfettered investigations by accredited monitors. At this time, the procedures for this are not yet in place. A retail company can also request certification on its own, but that would only concern the company itself. But the CEPAA states that this is not the system's purpose because SA8000 targets manufacturing plants

not companies from the service sector.



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7. MANY QUESTIONS

How do you determine what a living wage is?

National bureaus of statistics often have facts and figures that are used to determine what the poverty level is. From there it is determined what a particular "basket of groceries" that covers the basic needs for a family should be. The United Nations also gathers such figures. A choice will eventually have to be made for one system or another so that all nations can be accurately analyzed. In any case, even though it may be difficult to determine what a living wage is exactly, it is not difficult to determine whether the minimum wage is or is not below the living wage because the difference is so great between them. In many cases the minimum wage would have to be doubled to provide for even basic needs.

What is meant by "establishment of the employment relationship"?

One way in which employers can side-step their responsibilities is to treat workers not as employees hired by an employer but as if each employee is his or her own company. Each employee then works as a freelancer and is further responsible for becoming properly insured. And when there's no work to be had the employer is not responsible for paying wages. But when these "freelancers" are sitting in a factory working they are in effect, 100% dependent on the employer's orders, engaged in a typical employer-employee relationship. The term "establishment of the employment relationship" means that in this kind of case, people should be hired as employees so that they can exercise the rights of an employee.

What does one do with countries where trade unions are illegal, such as in China and Indonesia?

Trade unions are also prevented from operating in most export processing zones. You could simply say that companies might as well not even bother to set up shop there. But for the people who work there this is not an improvement of their situation on any level. The trade unions and other organisations that are active there are not asking for this kind of reaction. They do encourage applying pressure to help change the present situation. That can be accomplished in various ways. Distributing information about workers rights in the very areas where presently no trade unions exist can have a noticeable effect on raising people's awareness of their own situations. Other types of organisations can be

created (employees councils, workers associations) which will strive to ultimately establish a trade union in these areas. If companies who place orders in these countries are pushing the government to accept trade unions it can have a much greater effect than if it were just workers or nations attempting to do so. After all, these governments certainly do not want to lose their foreign investors.

Why aren't there any environmental demands in the codes of conduct?

The codes of conduct only cover clothing production, that is to say, the portion of the production process that begins with the cutting of material and ends with retail sales in a store. Not that there aren't problems in the working conditions involved in other, earlier phases (cotton growing, the making of thread, textile weaving) but one can make demands on retail firms on the portions of the production process that they have actual control over.

The phase of the production process that deals with the actual manufacturing of clothing presents fewer environmental concerns than other phases of the production process, such as textile production and agriculture. We find that these issues are more important in the earlier phases, for instance, in the dyeing of textiles, the shrink-proofing and crease-resistance processes, the use of pesticides in cotton growing. It would seem more logical for codes that deal with these phases of production to contain more environmental demands than for the codes that deal mostly with the cutting and sewing of fabric.

Anyway, there are already a number of campaigns which combine social and environmental issues. They work together with environmental groups and put pressure on companies to, for instance, produce a certain percentage of their clothes using biological cotton. The environmental group's certification systems also deal with some social issues. In any case, it's important for all of these organisations to work together in a coordinated fashion.

Who pays for this kind of monitoring system?

The companies who want the certification seal.

But is this monitoring system really independent then, especially when the companies pay for it?

If it's handled properly, yes. The companies don't pay the monitors directly for doing the monitoring, they pay the foundation, which is proportionately represented by the different parties. The monitoring providers are independent of both the company and the foundation.

How does a worker know that he or she has these rights?

They are provided with information from a variety of sources. The code is posted in the factory in the workers' native language. They also receive a copy of the code in their native language. The workers are also informed about the code by word of mouth. This kind of word of mouth information is offered by the company itself. But trade unions and NGOs also have the right to visit the factories to inform the workers. Included with the information they receive is a local address where they can go to file a complaint about a code violation.

Do people dare to file complaints?

That depends on the situation. This is especially difficult in areas where the employees work in a repressive atmosphere. It is their experience that you can be fired for the slightest criticism, so they certainly don't want to take that risk. So one must be sure to have a neutral enough place where they will feel comfortable enough to go to file their complaints. If the trade union is too controversial and the social controls are overbearing then it's best

if the complaint location is not the trade union offices. One could instead establish it in a religious or human rights organisation for instance. It must grow through practice: if the bravest are willing to try it and nothing happens to them, then perhaps the others will eventually find the courage as well. So it's very important when establishing the complaint procedure that it's reliable from the very start.

Does every country in Europe now need its own foundation?

Ideally there would ultimately be one European, or even better, one worldwide foundation. But because there are so many organisations involved, this will take some time. It would be a pity to have to wait for something like that. So, in the mean time, it has been decided that effective campaigns who have been successful in dealing with companies on a national level should continue in this same vein. As long as all the systems are based on the same principles and have been established using the same structure, they will in good time be able to be combined into one larger international system.

If children who work in a factory are fired does that mean the family does not have any income?

If a monitor reports that there are children employed in a factory, the idea is not to get them fired. After all, if this happens the economic necessity of their having to work does not disappear and the only result will be that they will just find a job somewhere else, often in even worse conditions, for instance, in the construction industry. Other things are necessary to improve the working conditions of children. That's why in documents such as the Fair Trade Charter and the Code of Labour Practices there are special chapters that deal with child labor issues.

If a factory is caught employing children, then the first step is to be sure that their numbers don't increase. Thus if vacancies are created, the factory must be compelled not to hire any more children, but instead only people old enough to work, usually 14 or 15, depending on the area's legislation. The next step would be to insist that children begin working fewer hours while maintaining their present income levels and setting aside this extra time for education. That would only make sense if there are provisions for education available. Finally, working children must be replaced by adults, if possible adults from the same family.

How does one monitor the subcontracting of work?

In the monitoring system the factory which accepts the orders from a retail firm must report whether they use subcontractors and if yes, who. The subsubcontractors are then also monitored. But what if the factory doesn't do this? Then things might be OK inside the factory, but the work goes elsewhere where things are much worse. How does one find this out? It is plainly visible. The buyer knows how many production lines and how many weeks it takes to produce 100,000 pairs of jeans. If a buyer visits the factory and this factory were to produce the entire order, then it's easy to see from the production plans and the actual conditions in the factory, whether this particular factory can indeed meet the demands or whether there will be the need for an illegal subcontractor. On a small scale, things might slip through but large-scale subcontracting is easy to monitor.

Won't these "clean clothes" be expensive?

No. But the retail firm can always try this tactic, warning that their products will increase in price if they have to abide by these codes. But actually it's ridiculous. If we calculate what the total wages come to as a part of the total costs of an article of clothing it is always less than 5%. Most of the time it's even less. That means, in an extreme scenario, if wages were to double and the cost of this were passed along to the consumer, a pair of jeans that cost US\$50 now would then cost all of US\$52.50.

At some point there may have to be improvements in such items as better lighting, ventilation, safety regulations, etc. But if a company goes bankrupt because it had to install a few fire extinguishers and a few new beams and rafters it was in any case bound to happen sooner or later. If we were to calculate the total price of such expenditures as part of the total overhead we'd be talking about a few cents.

Shouldn't it be the government's job to make sure there are decent working conditions?

Yes. It's the task of governments to provide good working conditions and to enforce them. Legislation often does exist, and many garment-producing nations have good legislation in this area. The problem is that it isn't enforced properly. A major cause is that many third world countries have incurred high debts to meet the demands of the Structural Adjustments Program of the International Monetary Fund (IMF) and the World Bank. They are being forced to implement policies that will encourage foreign investment. Clothing and other light industries (shoes, toys, electronics) are often the first step towards the industrialisation of a country and thus these industries fit very well into these restructalisation policies.

Foreign investors are drawn by low wages, but also other factors make a particular place attractive to investors. One of those factors is being allowed to ignore certain work and environmental regulations. If a government does attempt to strictly enforce these regulations, you can bet that many investors will quickly pack their bags for a country a little further off in the distance, especially if this next country is even less strict or more accommodating. Strangely then, third world countries compete against one another based on the attractiveness of their bad working conditions.

But it's also wrong to assume that governments have absolutely no control over foreign investments. And not all companies pack up and leave at the first signs of government regulations. So it is valuable to encourage governments to pressure companies to take responsibility for their labor policies and ensure their compliance. But it's also true that a government's power against (large) companies is limited. Bad working conditions are an international problem that will not be solved on a national level alone.

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TOP



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